

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BILLY JO MALOTA, MEGAN MALOTA,
AND HAZEL HARRIS

VS.

BIO-DERM LABORATORIES, INC.

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Civil Action No. 2:15-CV-446

COMPLAINT

Billy Jo Malota, Megan Malota, and Hazel Harris, plaintiffs herein, allege:

1. This action is filed under 42 U.S.C. § 2000e-5(f)(1) (Title VII of “The Civil Rights Act of 1964”) for sexual harassment.

VENUE AND JURISDICTION

2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331 as it arises under the laws of the United States.

3. The court has specific and general personal jurisdiction over Bio-Derm Laboratories, Inc., as the company transacts extensive business in the state of Texas, including the operation of a factory. This case arises from the plaintiffs’ employment there.

4. Venue is proper in this court under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

5. Defendant Bio-Derm Laboratories, Inc., is incorporated under the laws of Texas, with a mailing address at P.O. Box 8070, Longview, TX 75607. It may be served by and through its registered agent for service of process, Frank H. Pohl, 1600 Redmon Road, Longview, TX 75602.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. The plaintiffs have exhausted all administrative remedies available from the Equal Employment Opportunity Commission and have received a right-to-sue letter before filing this suit.

FACTS

7. In May of 2014, the plaintiffs, Billy Jo Malota, Megan Malota, and Hazel Harris, worked for Bio-Derm Laboratories, Inc. (“Bio-Derm”) in production.

8. Another Bio-Derm employee, Jim Britton, had a history of mental illness.

9. He had been fired for behavior relating to his illness but was then re-hired by Bio-Derm.

10. On Friday, May 23, 2014, Mr. Britton began masturbating in front of the plaintiffs through his clothes.

11. When the three plaintiffs reported Mr. Britton’s behavior to their supervisor, Mike Robirds, he responded that he “couldn’t [expletive] believe it.” When they continued complaining, he responded by saying “you can get the [expletive] out.”

12. Sherry Evans is a processed orders in the front office and was in charge of accounts.

13. Because their employer did not express any intent to protect them from Mr. Britton’s sexual behavior, the plaintiffs did not return to work after that day.

LAW

14. It is an unlawful employment practice for an employer to discriminate against or discharge an individual because of such individual’s sex. 42 U.S.C. § 2000e-2(a).

15. The plaintiffs were subjected to a hostile work environment by sexual harassment and were constructively discharged.

16. Bio-Derm Laboratories, Inc. knew about the sexual harassment but failed to stop it.

17. Bio-Derm Laboratories, Inc. engaged in a discriminatory practice with malice or reckless indifference to the federally-protected rights of the plaintiffs.

18. The plaintiffs were constructively discharged by the actions of Bio-Derm Laboratories, Inc.'s failure to train and correct its employees sexually harassing behavior.

DAMAGES

19. The plaintiffs are entitled to recovery for lost wages and mental anguish.

20. The plaintiffs may also recover punitive damages. 42 U.S.C. 1981a.

ATTORNEY'S FEES AND COSTS

21. The recovery of costs and an attorney's fee is authorized under 42 U.S.C. 2000e-5(k).

JURY DEMAND

22. The plaintiffs hereby demand a jury trial in this case.

PRAYER

23. For these reasons, plaintiffs ask for judgment against defendants for the following:

- a. Compensatory damages, including lost wages and mental anguish.
- b. Punitive damages.
- c. Pre-judgment and post-judgment interest.
- d. Reasonable attorney's fees.
- e. Costs of suit.
- f. All other relief the Court deems appropriate.

Dated: March 31, 2015

Respectfully submitted,

SNOW E. BUSH, JR., P.C.
420 N. Center Street
Longview, TX 75601
Tel. (903) 753-7006
Fax (903) 753-7278
E-mail: jonathanwharton1@sbcglobal.net

By: /s/ Jonathan Wharton
JONATHAN WHARTON
STATE BAR NO. 24075764

ATTORNEY FOR PLAINTIFFS,
BILLY JO MALOTA, MEGAN MALOTA, AND
HAZEL HARRIS